

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

TANISHA R. CARTER
TX-1333998-L

§
§
§
§
§
§

DOCKETED COMPLAINT NO.
06-146, 07-066, 07-078, 07-118,
07-184

AGREED FINAL ORDER

On this the 20th day of February, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Tanisha R. Carter, (Respondent).

In order to conclude this matter, Tanisha R. Carter neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Tanisha R. Carter is a state licensed real estate appraiser, holds license number TX-1333998-L, and has been licensed by the Board since August 4th, 2004.

2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.

3. Respondent appraised the following real properties: 35 Philbrook Way, Spring, Texas 77382 ("the Philbrook property"). 543 27th Street, Houston, Texas 77036 ("the 27th Street property"), 4501 Waycross Street, Houston, Texas 77035 ("the Waycross property"), and 24102 Spring Sunset, Spring, Texas 77373 ("the Spring property").

4. Thereafter complaints were filed against Respondent in connection with these appraisal reports.

5. The Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of each such complaint and Respondent was afforded an opportunity to respond to the accusations alleged in each one. Respondent's response to each complaint was received.

6. The Enforcement Division has concluded that the Respondent's appraisal reports for the above-noted properties violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

7. Specifically, Respondent's USPAP violations with respect to the Philbrook property include:

- a) Respondent failed to provide a summary statement of her supporting rationale for her determination of the Philbrook property's highest and best use;
- b) Respondent has not used an appropriate method or technique to develop an opinion of the property's site value. Respondent failed to provide any lot sales data to support her land value estimate;
- c) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements. Respondent significantly inflated the cost per square foot (\$175.00). This cost figure is incongruent with data from industry recognized cost manuals and other information sources;
- d) Respondent incorrectly employed recognized methods and techniques. Respondent did not support her estimate of the property's land value;
- e) Respondent did not adequately collect, verify, analyze and reconcile comparable sales data. The comparable sales chosen were not comparable to the subject property and should not have been used;
- f) Respondent failed to analyze the current agreement of sale and report and analyze seller concessions and make any appropriate adjustments for such concessions;
- g) Respondent failed to correctly employ recognized methods and techniques to produce a credible appraisal. Respondent used sales that were not similar to the subject due to variations in lot characteristics, site location differences and square footage differences. More similar comparable sales existed in the property's immediate neighborhood that should have been used but were not. Because of these problems Respondent produced a report that was not credible;
- h) Respondent committed substantial errors of omission or commission that significantly affected the appraisal. Specifically, Respondent erroneously measured the dimensions of the Philbrook property's house, produced an erroneous sketch of the floor plan and made erroneous square footage determinations. These errors significantly affected her appraisal of the property, including the selection of comparable sales that were not similar in square footage;

- i) Respondent's report does not clearly and accurately set forth the appraisal in a manner that will not be misleading.

8. Respondent's USPAP violations with respect to the Spring property include:

- a) Respondent failed to provide a summary statement of her supporting rationale for her determination of the Spring property's highest and best use;
- b) Respondent failed to use an appropriate method or technique to develop an opinion of the Spring property's site value;
- c) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements for the Spring property because she inflated the cost per square foot to a figure that is significantly higher than the figure derived from industry recognized cost manuals and other information sources;
- d) Respondent failed to collect, verify, analyze and reconcile accrued depreciation properly. Her report erroneously indicates a depreciation value of 79%;
- e) Respondent failed to employ recognized methods and techniques in her cost approach analysis correctly;
- f) Respondent did not collect, verify, analyze and reconcile comparable sales data adequately. She misrepresented the sales prices of the comparable sales she used (sales 1-3), and employed an unreliable data source (Real Quest) that is not typically used by other real estate appraisers under these conditions even though the correct sales prices were readily available in the Multiple Listing Service system;
- g) Respondent has failed to employ recognized methods and techniques correctly in her sales comparison approach for the reasons detailed above;
- h) Respondent produced a misleading appraisal report that contained several substantial errors of omission or commission by not using correct methods and techniques and this resulted in an appraisal report that was not credible or reliable;
- i) Respondent did not sign the certification in her appraisal report;

9. Respondent's USPAP violations with respect to the Waycross

property¹ include:

November 23rd, 2004 Report

- a) Respondent failed to maintain and provide a copy of her work file in connection with this appraisal assignment;
- b) Respondent failed to adequately identify and report the site description because she gave a misleading description of the neighborhood, including its predominate value, marketing time, and the age range of area homes;
- c) Respondent failed to provide a summary statement of her supporting rationale for her determination of the Waycross property's highest and best use;
- d) Respondent failed to use an appropriate method or technique to develop an opinion of the Waycross property's site value;
- e) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements for the Waycross property because she inflated the cost per square foot to a figure that is significantly higher than the figure derived from industry recognized cost manuals and other information sources. Additionally, the cost of the garage is inflated due to an erroneous square footage calculation. Finally, Respondent failed to include any estimates for porch, patio, or site improvements;
- f) Respondent failed to collect, verify, analyze and reconcile accrued depreciation properly;
- g) Respondent failed to employ recognized methods and techniques in her cost approach analysis correctly;
- h) Respondent failed to collect, verify, analyze and reconcile comparable sales data properly and failed to employ recognized methods and techniques correctly. Even though appropriate comparable properties were readily available in the area, Respondent used inappropriate and dissimilar properties as comparable sales that had been extensively remodeled and updated, unlike the Waycross property. In addition to failing to utilize the most similar sales, Respondent failed to make appropriate adjustments to the comparables she did use to account for the differences between them and the Waycross property;

¹ This complaint (#07-118) involves two different appraisal reports performed on the same property at different points in time. The first report was produced in conjunction with a sale of the property and the second report was produced at a later point when the same owner then tried to refinance. Both reports were performed by Respondent.

- i) Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;
- j) As detailed above, Respondent committed substantial errors of omission or commission that significantly impacted the Waycross appraisal report;
- k) As noted above, Respondent rendered appraisal services that were careless or negligent;
- l) Respondent failed to set forth her appraisal report in a manner that will not be misleading;

December 19th, 2006 Report

- a) Respondent failed to identify the client in her appraisal report;
- b) Respondent has failed to identify and report the improvement(s) description adequately. Respondent's floor plan sketch and living area calculations are incorrect and do not match photographs of the property. Additionally, Respondent has failed to provide sufficient information about or make appropriate adjustments in her sales analysis for deferred maintenance and foundation repairs issues;
- c) Respondent failed to provide a summary statement of her supporting rationale for her determination of the Waycross property's highest and best use;
- d) Respondent failed to use an appropriate method or technique to develop an opinion of the Waycross property's site value;
- e) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements for the Waycross property because she inflated the cost per square foot to a figure inconsistent industry recognized cost manuals and other information sources. Additionally, the cost of the garage is inflated due to an erroneous square footage calculation. Finally, Respondent failed to include any estimates for porch, patio, or site improvements;
- f) Respondent failed to employ recognized methods and techniques in her cost approach analysis correctly as noted above;
- g) Respondent failed to collect, verify, analyze and reconcile comparable sales data properly and failed to employ recognized methods and techniques correctly. Even though appropriate comparable properties were readily available in the area, Respondent used inappropriate and dissimilar properties as comparable sales that had been remodeled and updated, unlike the Waycross property. In addition to failing to utilize the most similar sales,

Respondent failed to make appropriate adjustments to account for seller concessions, living area size and additional bathrooms for comparable sale 1, made excessive adjustments for comparable sales 2, 3 and 4 and failed to adjust comparable sales 1 and 5 due to high traffic, busy street location;

h) Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;

i) As detailed above, Respondent committed substantial errors of omission or commission that significantly impacted the Waycross appraisal report;

j) As noted above, Respondent rendered appraisal services that were careless or negligent;

k) Respondent failed to set forth her appraisal report in a manner that will not be misleading;

l) Respondent failed to include a signed certification in her appraisal report;

10. Respondent's USPAP violations with respect to the 27th Street property include:

- a) Respondent failed to analyze and reconcile previous sales of the 27th Street property within 3 years of the date of her appraisal report. Respondent also failed to accurately report the ownership of the 27th street property in her appraisal report;
- b) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements for the 27th Street property because she inflated the cost per square foot to a figure significantly higher than industry recognized cost manuals and other information sources;
- c) Respondent failed to employ recognized methods and techniques in her cost approach analysis correctly as noted above;
- d) Respondent failed to collect, verify, analyze and reconcile comparable sales data properly and failed to employ recognized methods and techniques correctly. Even though appropriate comparable properties were readily available in the area, Respondent used inappropriate and dissimilar properties as comparable sales which were superior in quality and condition. In addition to failing to utilize the most similar sales, Respondent made adjustments to account for the additional living quarters noted in her report, but then incorrectly included the living quarters square footage in the total square footage for the main area. Respondent also failed to report, analyze and adjust for seller concessions of \$15,000.00 which were contained in the contract of sale. Finally, Respondent failed to

disclose and analyze the commercial property adjacent to the 27th Street property and its impact on value;

- e) Respondent has failed to disclose and analyze the commercial property adjacent to the 27th Street property and its impact on value;
- f) Respondent has failed to identify and report the improvement(s) description adequately. Respondent failed to describe the additional living quarters adequately and gave no information regarding the quarters' size, number of rooms, or bathrooms. Additionally, she reported and gave value for a 2 car garage, but no garage exists on the property;
- g) Respondent failed to provide a summary statement of her supporting rationale for her determination of the 27th Street property's highest and best use;
- h) As detailed above, Respondent committed substantial errors of omission or commission that significantly impacted the 27th Street property appraisal report;
- i) As noted above, Respondent rendered appraisal services that were careless or negligent and not credible;
- j) Respondent failed to set forth her appraisal report in a manner that will not be misleading;

11. The Enforcement Division has concluded that the Respondent violated TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of the appraisal report.

12. Respondent made material misrepresentations and omissions of material fact with respect to the following real estate appraisal reports:

- a. Philbrook Property Appraisal: Respondent misrepresented the dimensions and square footage of the property's house and misrepresented of the true layout and appearance of the Philbrook property. Respondent misrepresented that the comparable sales she selected were similar to the Philbrook property and Respondent omitted more appropriate comparable sales that should have been used in her sales comparison approach. Respondent also omitted material facts in her appraisal report by failing to disclose, analyze and report seller concessions evident from the contract of sale and failing to disclose, analyze and report golf club membership costs since the Philbrook property is located within a golf course community.

b. The Spring Property Appraisal: Respondent misrepresented the depreciation rate was 79%, misrepresented that the comparable sales she selected were similar to the Spring property and Respondent omitted more appropriate comparable sales that should have been used in her sales comparison approach and inflated the cost per square foot in her cost approach analysis. Respondent also misrepresented the sales price of the comparable sales she used in her sales comparison approach analysis.

c. The Waycross Property Appraisals: Respondent misrepresented the square footage, inflated the cost per square foot, and omitted pertinent information about sales concessions for some of the comparable sales used.

d. The 27th Street Property Appraisal: Respondent inflated the cost per square foot, and omitted pertinent information about sales concessions, omitted important information about the prior sales history of the 27th Street property, omitted discussion and analysis of the additional living quarters, omitted discussion and analysis of the commercial property adjacent to the 27th Street property and its impact on value, and misrepresented the existence of a garage on the property. Respondent also misrepresented that the comparable sales she selected were similar to the 27th Street property and she omitted more appropriate comparable sales that should have been used in her sales comparison approach.

CONCLUSIONS OF LAW

The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451–1103.5535 (Vernon 2005).

Respondent violated the following USPAP provisions as prohibited by TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Ethics Rule (record keeping provisions); USPAP Standards Rules: 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-5(a) & 2-2(b)(viii); 1-1(a); 1-1(b); 2-1(a); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 2-3 & 2-2(b)(xii); 1-2(e)(i) & 2-2(b)(iii); 1-6(a) & (b) & 2-2(b)(ix); 1-1(c); 1-2(a) & 2-2(b)(i); 1-5(a), 1-5(b) and 2-2(b)(ix).

1. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making a material misrepresentations or omissions of material fact in her real estate appraisal reports.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent:

a. Shall have her license suspended for 2 years, the first 3 months of this suspension being a full suspension without probation and the remaining 1 year and 9 months of the suspension being fully probated. This suspension shall be under the following conditions:

i. During the first 3 months of this suspension, Respondent shall not engage in any real estate appraisal activities whatsoever;

ii. During the entire 2 year suspension Respondent shall submit an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities she has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate; and,

iii. Respondent shall submit to a reexamination for her state license and receive a passing grade on such reexamination and submit satisfactory evidence of successfully passing the reexamination within 6 months of the effective date of this order;

iv. Respondent shall timely remit payment of the administrative penalty, timely submit satisfactory evidence of successfully passing a reexamination for her state license and timely complete all of the remedial coursework required in this Order;

b) Pay to the Board an Administrative Penalty of \$3,000.00, the payment of which shall be made in twenty (20) installments of \$150.00, with the first payment being due upon approval of this Order and the remaining payments being due on the first of each month thereafter until paid in full;

c) Attend and complete a minimum, 15 classroom-hour course in USPAP;

d) Attend and complete a minimum, 15 classroom-hour course in the Sales Comparison Approach or Residential Case Studies;

e) Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies

f) Attend and complete a minimum, 15 classroom-hour course in Highest & Best Use;

g) Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing;

h) Attend and complete a minimum, 15 classroom-hour course in the Cost Approach;

i) Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless indicated otherwise in this Order, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered in accordance with the terms of this Agreed Final Order.

Failure to timely comply with any of the terms of this Agreed Final shall result in initiation of a contested case proceeding against Respondent. If after opportunity for a hearing, a failure to timely comply with this Agreed Final Order is proven at such a hearing, Respondent's license shall be revoked.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 10th day of December, 2008.


TANISHA R. CARTER


SADIYAH EVANGELISTA, ATTORNEY
FOR TANISHA R. CARTER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 10th day of December, 2008, by TANISHA R. CARTER, to certify which, witness my hand and official seal.

Juanita J. Barner
Notary Public Signature

Juanita J. Barner
Notary Public's Printed Name



Signed by the Commissioner this 20th day of February, 2008.

Timothy K. Irvine
Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20th day of February, 2008.

Clinton P. Sayers
Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board